

## REMARKS

The kindness and helpfulness of Examiner Le and Examiner Myhre during the interview of Dec, 15, 2004 are acknowledged and were greatly appreciated. Dale Lazar and Lisa Norton attended the interview. The following remarks were presented at the interview.

Claims 28-47 are pending in the current application. Claims 28, 40, and 45-47 are the independent claims.

The Office Action indicated that Claims 28-33, 35-36, 38-43, and 45-47 are rejected under 35 U.S.C. 102(b) as being anticipated by Logan (U.S. 5,721,827). The Office Action also indicated that Claims 34, 37, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Logan. Applicants respectfully disagree. However, Claims 28, 40, and 45-47 have been amended in order to expedite prosecution of the application. Claims 29-39 and 41-44 depend on the independent claims, and are thus also allowable.

### Claims 28-45

Logan teaches an audio program in which a host system organizes and transmits program segments to clients. ( Logan, Abstract.) The programs are subdivided into program segments. (Logan, column 1, lines 52-53.) The data downloaded to a client includes a recommended program sequence file which identifies the order which program segments are to be played. (Logan, column 7, lines 8-10.) Before a playback session begins, the client can review and alter the program selections and sequence, including altering the extent to which advertising will be played. (Logan, column 7, lines 13-21.) However, Logan does not include the feature of prompting the user at the beginning of each program (not each program segment), on a program-by-program basis, to choose whether or not the user wishes to view advertising with that program. This feature is present in Claims 28--45, and is disclosed in Applicant's application (see, *e.g.*, page 9, lines 5-19). Applicant

respectfully submits that Claims 28-45 are thus patentable over Logan.

#### Claim 46

Logan also does not disclose the feature of delivering the choice compensation based on the supply and demand per user based on the viewing habit and/or demography of the user. This feature is present in Claim 46, and is disclosed in Applicant's application (see, *e.g.*, original Claim 34; page 12, line 22 - page 13, line 2). The Office action indicates that this feature is obvious without providing any evidence to support this conclusion in the context of determining compensation for watching content without advertising. Applicant disagrees and submits that this feature is unique in the art, and is thus not found in prior publications or patents. Applicant respectfully submits that Claim 46 is thus patentable over Logan. If the Examiner continues to believe that this rejection is proper, the undersigned requests that the Examiner provide evidence sufficient to support this conclusion.

#### Claim 47

Logan also does not include a feature that a user can avoid or reduce advertisements by paying an increased fee. This feature starts with a content provider providing both content and advertising to a user, and then allowing the user to pay an increased fee to exclude advertising. This feature is supported in Applicant's application. (See, *e.g.*, Applicant's specification, page 16, lines 3-14). In contrast, Logan describes a feature, in which a content provider provides content with no advertising, and then allows the user to pay a decreased fee if advertising is added. (See Logan, col. 7, lines 60-65, col. 9, lines 5-11, col. 9, line 57 to col. 10, line 5, col. 11, lines 38-43, and col. 21, lines 44-47).

### Specification

The specification has been amended to include material present in original claim 16.

### Concluding Remarks

Applicants note that applicants remarks in previous amendments do not coincide with the claims. Accordingly, Applicants withdraw all characterizations of the invention that have been made in previous amendments. Applicants specifically reserve the right to prosecute any cancelled claim, or claim before amendment, or any other claim directed to the subject matter of the same, in any application that claims priority to, or through this application, including any continuation application, divisional application, RCE, CPA, etc.

Applicants believe the objections and rejections in the Office Action have been addressed and that the application is now in condition for allowance. The Examiner is invited to contact the undersigned by telephone should the Examiner believe that personal communication will expedite prosecution of this application.

Respectfully submitted,

PIPER RUDNICK LLP

A handwritten signature in black ink, appearing to read "Dale Lazar", is written over a solid horizontal line.

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